IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

CRP.No. 878 of 2006()

AGAINST THE ORDER IN
EP.17/2004 IN LAR.8/1989 of SUB COURT, KASARAGOD

.....

REVN. PETITIONER: PETITIONER/(DECREE HOLDER):

UMAVATHI, D/O. SADASHIVA RAI AND
W/O. DR.JAGANNATHA ALVA, RESIDING AT 404,
BON VIEW TOWERS, MALLIKATTA, MANGALORE-2.

BY ADV. SRI.K.G.GOWRI SHANKAR RAI

RESPONDENTS: RESPONDENTS/J.DS.
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1. THE SPECIAL TAHSILDAR (LA),
KASARAGOD, P.O. KASARAGOD.

2. THE KERALA STATE WARE HOUSING
CORPORATION, REPRESENTED BY ITS MANAGING DIRECTOR,
ERNAKULAM.

R1 BY GOVERNMENT PLEADER SMT. R. BINDU.
R2 BY SRI.MAJNU KOMATH
SRI.SHAHIN.M.KOMATH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. 1520 OF 2007
IN
C.R.P. NO.878 OF 2006

DISMISSED

8/10/07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.

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C.R.P. NO. 878 OF 2006

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Dated this the 8th day of October, 2007.

O R D E R

This revision petition is preferred against the order of the Subordinate Judge, Kasaragod in E.P.17/04 in LAR 8/89. By the said order there is a direction that as the petitioner has withdrawn an amount of Rs.33,943/- in excess of the amounts due to her and therefore the respondent is given liberty to recover the excess amount paid and therefore the E.P. was closed.

2. The learned counsel for the revision petitioner has drawn my attention to Annexure A, B and also Annexure C. Annexure A is a statement filed by the Government whereby they have fixed the compensation due taking into consideration interest part up to 27.10.94 as Rs.1,95,547/-. The Court found that an amount has been deposited, i.e., Rs.1,24,496/- and therefore the balance is Rs.71,051/- deducting Rs.7,225/- as the income tax the balance amount was found to be Rs.63,826/- plus the legal fee etc. Thereafter, the same Court passed an order on 3rd March,

2005 whereby it was held that the petitioner is entitled to interest on the amount of Rs.63,826/- from 28.10.94 till date. Then the impugned order has been passed whereby the Court held that the aggregate compensation for 2/3 share of the claimant is Rs.84,221.32 and interest factor from 25.6.88 to 27.10.94 would come to Rs.1,59,293.67/- (inclusive of Rs.84,221.32). Then referring to the two deposits referred to by me earlier came to a conclusion that there is an excess amount of Rs.33,943/-. It is not known how the Land Acquisition Court has arrived at 2/3 share of the amount at Rs.84,221/-. Similarly, in the earlier order it was held that the person is entitled to solatium from 28.10.94 till the date of passing of the order on 3.3.05. The Court under the impugned order has only taken into consideration the interest up to 27.10.94 then deducting the total amount of deposit, arrived at a conclusion that there is excess payment. There seems to be confusion about the whole thing which requires reconsideration. Therefore, the order under challenge is set aside and the Court is directed to

consider afresh these matters and arrive at a decision regarding the fact whether there is any excess payment made in favour of the petitioner, in accordance with law and on the basis of the decision of the Land Acquisition Court as well as the appellate court. The parties are directed to appear before the Court below on 12.11.07 and for the said purpose E.P. may be reopened and disposed of. The Court may also try to dispose of the matter as expeditiously as possible within a time frame of three months.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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